



## MICHIGAN CLEAN AIR COMPLIANCE ADVISORY PANEL (CAP) MEETING MINUTES September 7, 2006

**Attendees:** Dennis Armbruster, Assistant Division Chief, Air Quality Division (AQD), MDEQ  
Barry Cargill, President, B. Cargill Associates, LLC  
Steven Chester, Director, MDEQ  
Donna Davis, Clean Air Assistance Program (CAAP), MDEQ  
Dave Fiedler, Manager, Clean Air Assistance Program (CAAP), MDEQ  
Bo Garcia, the Michigan Small Business Development Center, Region 8  
Susan Holben, Michigan Clean Air Ombudsman, MEDC  
Marcia Horan, Pollution Prevention, ESSD, MDEQ  
Dr. Virginia Jones, SSJ, Representing the General Public  
Jim Ostrowski, Clean Air Assistance Program (CAAP), MDEQ  
Judy Schaefer, Technical Assistance, ESSD, MDEQ  
Brian Warner, Wolverine Power Cooperative  
Bruce Wigginton, Mason Auto Body Repair

### **Welcome, Introductions & Review of Today's Agenda – Barry Cargill**

### **Multimedia Expansion of the Small Business Program – An Open Discussion with Director Steve Chester of the DEQ – Brian Warner**

Brian Warner prefaced the discussion with a reminder to those present that the CAP at the national and state level has been trying to move to a format that will allow them to oversee the compliance assistance functions of the states' small business programs. Mr. Warner indicated that there is support from the EPA for a draft approach that would move to create a multimedia small business CAP, Ombudsman and technical assistance program. In response, Director Chester asked if there was statewide support, among Region V states (or other states) for the creation of a multimedia CAP and Ombudsman. Mr. Warner indicated that the response was mixed, but that there was a consensus nationwide that the small business CAPs, Ombudsman and technical assistance programs should be multimedia in scope. Director Chester indicated that he would prefer that the approach to creating a multimedia small business program were a state-by-state one that would generate federal revenue support for each state's small business program. Mr. Warner indicated that there may be federal funding available possibly to the tune of \$1-2 million per state, however conceded that this would be difficult initiative, given that federal funding has been reduced to both states, and the federal Small Business Ombudsman's Office. Mr. Warner, who is the Region V representative to the National CAP (NCAP), stated that the NCAP wants to see this funding stabilized and more consistent over the coming years.

Mr. Warner also cited how Element 13 of the Performance Track program is allowed in states located in EPA's Region I versus Region V. Element 13 allows states to receive "credit" for the use of voluntary audit programs (such as an Environmental Results Project) in place of the meeting certain objectives under the compliance and enforcement inspection criteria. Mr. Warner indicated that this is a better way for the MDEQ to help companies achieve compliance. Bruce Wigginton echoed how much more beneficial this approach is – especially for small

businesses. Barry Cargill indicated that utilizing this approach helps make the environmental requirements more transparent through the creation of an easy to understand guide. Dennis Armbruster reminded the CAP that the regulatory divisions in the MDEQ have their hands tied right now because of federal funding attached to the inspection and enforcement components of the regulatory programs. Mr. Armbruster inquired of Director Chester if the Environmental Council of States (ECOS) could help out by lobbying Congress for a change in how this funding is attached to state regulatory obligations. Mr. Armbruster seemed to think that there would be great interest by other states in working with ECOS on these multimedia objectives. Director Chester agreed that using ECOS for the purpose of lobbying Congress or the EPA would be a good idea since ECOS now had a branch of its organization that could provide lobbying services.

Mr. Warner stated that the MDEQ should be looking at where the next big gains in emissions reductions can be made. Director Chester inquired about the status of the Michigan Environmental Results Project (MERP), and if an evaluation of this project has been completed. Jim Ostrowski, the MERP project manager, indicated that the MERP was just beginning for the dry cleaning industry, and that there were not many results as of yet. Given that the MERP is a multimedia project, and that ESSD's compliance assistance staff have completed one general manufacturing and two industry-specific multimedia guides, Director Chester inquired whether the regulated community objected to using its permit fees to fund the minimal level of multimedia compliance assistance that is currently taking place in ESSD. Dennis Armbruster stated that he didn't believe that this was an issue for industry.

Director Chester noted that the EPA has received significant budget decreases which have been passed onto states in the form of grant reductions. Therefore, Director Chester believed that the EPA would be reluctant to expand (through funding and authorization) the state's small business program components at a cost to their own program. Dennis Armbruster indicated that Congress can always go back and open up various environmental program's legislative authorizations, and require multimedia compliance assistance this way. Mr. Armbruster stated that this would be a way to support multimedia compliance assistance through a fee structure. Marcia Horan suggested that a different route to funding can be explored (i.e. through a different federal agency). She stated that something similar was pursued before about 4 years ago that would instead re-route some funding for environmental compliance assistance through the U.S. Small Business Administration's Small Business Development Centers. Ms. Horan recalled that there was such an intense opposition from the state's small business environmental programs to this concept that it was quickly scrapped.

Brian Warner distributed a draft copy of new legislation, that is to be proposed by Senator Michelle McManus ( R ) of Lake Leelanau, that would require ESSD's compliance assistance staff to prepare two industry-specific self-audit environmental results guides, and that through the use of these guides, a specific industry sector would have limited liability from enforcement. Mr. Warner stated that the draft legislation represents a trial that would examine what level of resources might be needed to complete these guides. Brian Warner saw this draft legislation as an extension of some previously introduced legislation by Senator McManus (i.e. SB 690). Mr. Warner was not sure if the draft version of the legislation, requiring completion of the two guides, would be introduced during this senate session.

Director Chester expressed his concern regarding language in the draft legislation that would duplicate what is already covered by MDEQ policy. He stated that he would prefer to have such legislation developed at the executive level. Judy Schaefer also stated that anytime ESSD staff develop a guide, it will require maintenance to keep it current, and often that is resource intensive.

Discussion conclusion: Director Chester proposed that Brian Warner and other members of the NCAP poll other states to determine their interest in developing and submitting a resolution(s) of support that would demonstrate to ECOS that states were interested and united in their pursuit to develop multimedia compliance assistance programs for small businesses. The draft resolution(s) would have to come from each state's respective environmental agency, and Director Chester would need the resolution no later than January 2007. The draft resolution(s) could then be presented to ECOS at their upcoming spring meeting in April 2007. Director Chester is also encouraging the NCAP to seek out additional support for the small business programs through increased federal funding wherever possible. Director Chester indicated that he did not want Michigan and other states to end up picking up the costs for a multimedia program expansion as an unfunded mandate.

Action Item: The CAAP staff is to work with Brian Warner and the NCAP to develop a Michigan resolution on behalf of the MDEQ that advocates and supports the expansion of the small business program in the area of multimedia. The Michigan small business program will also work with other states' small business programs to persuade ECOS to lobby for multimedia expansion at the national level.

### **Approval of Meeting Minutes – Barry Cargill**

The minutes from the June 13, 2006 CAP meeting were approved, and are ready to be posted on the CAP's web site.

### **Air Quality Rules and Program Update – Dennis Armbruster**

#### **Status of NAAQS Ozone Standard**

The MDEQ has submitted a redesignation and maintenance request for five counties (Lapeer, Genesee, Muskegon, Berrien, and Cass). As of yet, the MDEQ has not received a response from EPA on an earlier request for redesignation to attainment of 11 other counties (Ingham, Eaton, Clinton, Kent, Ottawa, Kalamazoo, Calhoun, Van Buren, Benzie, Mason and Huron). Dennis Armbruster believes that the EPA is still waiting for the MDEQ to submit this year's monitoring data, and expects a response in the next couple of months. He indicated that the effective date for any redesignation is the date that EPA provides the MDEQ with a response, and that the attainment designation stays until EPA revokes it. Mr. Armbruster concluded with the news that a preliminary review of the monitoring data shows a successful demonstration of improvement of ozone precursors in many of Michigan's counties. The one exception is Allegan county, whose monitor continues to read high levels of transported ozone from upwind states. Mr. Armbruster stated that EPA is fully aware of the source of Allegan county's ozone, and they, along with the MDEQ have been working with these upwind states to try to find a solution.

Mr. Armbruster also reported that the MDEQ is compiling a set of measures that will bring non-attainment areas of the state into compliance. One of these measures is the Consumer Products rule which was recently out for public comment. Another measure involves working with a large volatile organic compound (VOC) and oxides of nitrogen (NO<sub>x</sub>) source in southeast Michigan. The MDEQ is currently negotiating a consent order with this pollution source so that more stringent VOC and NO<sub>x</sub> controls will be implemented. Should negotiations fall through, and as a back-up to the consent order, Mr. Armbruster said the MDEQ is also implementing a rules package that will provide the same level of VOC and NO<sub>x</sub> reductions as would the consent order.

### The Air Permitting Process

Dennis Armbruster informed the CAP that permits continue to be processed in a timely manner. He noted that the AQD's Permit Section has implemented a survey system to measure customer satisfaction with the permit application process. The customer survey measures two components: the permit engineer's perception of the process, and the customer's perception of the process. The compiled results are going to be used to better the overall permit processing service provided by the AQD. This idea was originally generated by participants in the DEQ-DNR-MDA Leadership Academy, and the results will be presented to Director Chester and his management team at the end of the year. Brian Warner offered a suggestion that the surveys incorporate the size of the business so that the CAP could see how many of those surveyed were small businesses. Mr. Warner encouraged the AQD and the MDEQ to share the results of this pilot project with the Clean Air Ombudsman and CAP.

### Update on CAAP Activities – Dave Fiedler

#### Workshops

*Michigan Environmental Compliance Conference:* Dave Fiedler indicated that this was a success with over 900 attending. Mr. Fiedler announced that the updated *Michigan Manufacturers' Guide to Environmental, Safety and Health*, which was distributed to workshop participants, is now available on CD. The CD version of the guide includes hyperlinks to the web sites cited in the guide. The CD retails for \$15 and is another option for those wishing to purchase this guide.

*Registration, Evaluation, and Authorization of Chemicals (REACH):* Mr. Fiedler shared with the CAP that this workshop is focused on the proposed overhaul of the European chemicals management system. The REACH workshop is mainly for those companies doing business in the European Union (EU), and provides an overview of this new EU initiative. The MDEQ is a sponsor.

*Ceres Meeting:* Marcia Horan stated that staff from Ceres are coming to Michigan on November 1, 2006 to host a discussion forum on the public global initiative for sustainable reporting at the facility level. This meeting is for companies that want to move from corporate reporting to facility-level reporting, and how to develop a relationship with the local community. Ms. Horan invited CAP members to attend if interested in participating in the discussion.

Ceres is a national network of investment funds, environmental organizations and other public interest groups working to advance environmental stewardship on the part of businesses. Ceres is renowned for its unique ability to bring diverse groups together to find positive solutions for complex environmental and social challenges.

### **Michigan Clean Air Ombudsman Update – Susan Holben**

The CAP offered congratulations to Susan Holben and her recent gubernatorial appointment as the next (Small Business) Clean Air Ombudsman. Judy Schaefer also suggested that perhaps ESSD should develop an article for the *ESSD Bulletin* on Ms. Holben's recent appointment.

Ms. Holben informed the CAP that much of her outreach to businesses has died down somewhat. She indicated that she is no longer doing Chamber of Commerce visits and presentations. Chris Holman, who has been hired on contract by the MEDC to be the small business advocate, is touring the state promoting the public resources available to small businesses. She is not sure if she will also be traveling around the state to visit companies, associations, etc. Barry Cargill suggested that the CAAP should make contact with Chris Holman to make sure that he is helping market all of the MDEQ's products and services in his statewide presentations and conversations with small businesses.

Ms. Holben noted that the MEDC has been doing some major marketing in a number of trade publications and magazines. Barry Cargill suggested that Susan think about carrying the message to small businesses about the MDEQ's workshops and guidance publications. Mr. Cargill believed that Ms. Holben could encourage more small businesses to utilize these resources.

**Action Items:** Develop article on Susan Holben and her recent appointment to the position of Michigan Clean Air Ombudsman. Additionally, contact should be made with Chris Holman to make sure that he adds in information on the MDEQ's products and services in his statewide presentations and conversations with small businesses.

### **CAP Reports and Web Page Changes – Donna Davis**

Donna Davis previewed the new content of the CAP web page which: gives a description of the CAP; lists their responsibilities; includes information on how the CAP can help businesses; talks about the CAP's activities and advocacy; lists its meetings and schedule; and includes biographic information about the CAP members. Ms. Davis asked that CAP members provide her with feedback about the revised content information so that a final revision of the content can be posted to the CAP web site.

**Action Item:** Follow-up with CAP members to receive comments on web site content for finalization.

**Other Issues and Public Comment – Donna Davis**

Barry Cargill discussed his new business affiliation as he is no longer with the Small Business Association of Michigan. His new company, Cargill Associates, will be working with small entrepreneurs from emerging industry sectors in the state who are not otherwise affiliated with another statewide association. Mr. Cargill is also working with the Customer Choice Coalition, a group of small independent utility companies that advocate offering consumers the ability to chose their utility provider.

Brian Warner suggested that for the next CAP meeting, that the issue of how to convert the CAP and Ombudsman into multimedia components of the small business program be put on the agenda. The CAP can discuss the draft resolution that is developed by Michigan that will be presented to ECOS in the spring. In the meantime, Mr. Warner is going to discuss the resolution idea with the NCAP Chair, Mr. Ken Legler, so that he can get support for this idea among the other NCAP regional representatives. Mr. Cargill stated that he wanted to make sure the MDEQ would be comfortable with the resolution's language so that the state's executive office would be supportive of the overall effort.

Action Item: Add multimedia resolution item as a discussion topic on the next CAP agenda.

**Next CAP Meeting is scheduled for Thursday, December 7, 2006 at Constitution Hall, Lansing, Michigan.**